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UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA

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CHARLES AL-PINE,

Case No. [19-cv-00775-JD](#)

Petitioner

v.

JIMMY SMITH,

**ORDER OF DISMISSAL**

Respondent.

Re: Dkt. No. 3

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Petitioner, a prisoner in Texas, has filed a habeas action, though a review of the petition indicates that he seeks relief pursuant to 42 U.S.C. § 1983. Petitioner argues that his inmate grievances have not been addressed. Venue generally is proper in a judicial district in which: (1) any defendant resides, if all defendants are residents of the state in which the district is located; (2) a substantial part of the events or omissions giving rise to the claim occurred, or a substantial part of property that is the subject of the action is situated; or (3) any defendant is subject to the court's personal jurisdiction, if there is no district in which the action may otherwise be brought. 28 U.S.C. § 1331(b).

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No defendant is located in this district, no actions or omissions giving rise to petitioner's claims took place in this district, and petitioner himself is not in this district. Therefore, this district is not the proper venue for petitioner's claims. *See* 28 U.S.C. 1331. Accordingly, pursuant to 28 U.S.C. 1406(a), this case is **DISMISSED** without prejudice to petitioner filing his civil rights complaint in a federal district court where the venue is proper under 28 U.S.C. 1331.<sup>1</sup>

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<sup>1</sup> The Court has already transferred several of petitioner's habeas cases. Because this case would need to be reclassified as a civil rights action with a larger filing fee than a habeas action, petitioner can determine if he wishes to pay the filing fee in Texas.

1 Petitioner's motion to proceed in forma pauperis (Docket No. 3) is **DENIED**. A Certificate of  
2 Appealability is **DENIED**.

3 **IT IS SO ORDERED.**

4 Dated: March 19, 2019

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7 JAMES DONATO  
8 United States District Judge  
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CHARLES AL-PINE,  
Plaintiff,  
v.  
JIMMY SMITH,  
Defendant.

Case No. 19-cv-00775-JD

**CERTIFICATE OF SERVICE**

I, the undersigned, hereby certify that I am an employee in the Office of the Clerk, U.S. District Court, Northern District of California.

That on March 19, 2019, I SERVED a true and correct copy(ies) of the attached, by placing said copy(ies) in a postage paid envelope addressed to the person(s) hereinafter listed, by depositing said envelope in the U.S. Mail, or by placing said copy(ies) into an inter-office delivery receptacle located in the Clerk's office.

Charles Al-Pine  
2101 F.M. 369  
#1422624  
Housing 12-F-64 Cell  
Iowa Park, TX 76367

Dated: March 19, 2019

Susan Y. Soong  
Clerk, United States District Court

By:   
LISA R. CLARK, Deputy Clerk to the  
Honorable JAMES DONATO